

### REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1, 3, 5, and 9-13 are pending in this application. Claims 1, 3, and 9-13 are amended by the present amendment.

Amendments to the claims find support in the application as originally filed. Thus, no new matter is added.

In the outstanding Office Action, Claims 1, 3, 5, and 9-13 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent 6,128,472 to Harel et al. (herein "Harel") in view of U.S. Patent 7,149,195 to Kall et al. (herein "Kall").

Initially, Applicants and Applicants' representative gratefully acknowledge the courtesy of an interview with Examiner Wendell on July 29, 2009. During the interview, the rejection in the outstanding Office Action and differences between the claimed invention and references in the outstanding Office Action were discussed. In particular, Examiner Wendell suggested that the independent claims would patentably define over Harel and Kall if the independent claims recited that the predetermined number was a configurable variable.

Accordingly, in the interest of compact and efficient prosecution, independent Claim 1 is amended to recite that a judger is configured to judge whether a counted number of response signals exceeds a configurable predetermined number that is a configurable variable. Independent Claims 3, 9, and 10 are similarly amended. The amendments find support in the application as originally filed, for example, in Applicants' specification at page 9, lines 20-21.

As discussed during the interview, Harel and Kall fail to teach or suggest the features of any of independent Claims 1, 3, 9, and 10. For example, as discussed, Harel and Kall fail to teach or suggest a determination that a counted number of response signals exceeds a

configurable predetermine number that is a configurable variable, in combination with the other recited features.

Harel describes a system and method for expanding high inbound message traffic in a two-way pager network, and Harel indicates that a “message manager will direct exactly one selected message from the multicast message group to the central base station controller 112.”<sup>1</sup> However, as discussed during the interview, Harel fails to disclose or suggest at least in combination with the other claimed features that “a counted number of response signals exceeds a configurable predetermined number that is a configurable variable,” as recited by Claim 1, and as similarly recited by Claims 3, 9, and 10.

Kall describes an apparatus and method for multicasting data in a radio communication system, Kall indicates that the system uses RANcast identifiers (RCID) to calculate a number of mobile stations that have requested a specific broadcast or multicast service in a cell controlled by the radio network controller,<sup>2</sup> and Kall describes that RANcast is implemented when the calculated number exceeds a threshold number.<sup>3</sup> However, as discussed during the interview, Kall also fails to teach or suggest the claimed features lacking in the disclosure of Harel.

Accordingly, Applicants respectfully request the rejection of Claims 1, 3, 5, and 9-13 under 35 U.S.C. § 103(a) as unpatentable over Harel and Kall be withdrawn.

Therefore, Applicants respectfully submit that independent Claims 1, 3, 9, and 10, and claims depending therefrom, are allowable.

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<sup>1</sup> Harel at Abstract and column 4, lines 43-45.

<sup>2</sup> Kall at column 4, lines 8-13.

<sup>3</sup> Kall at column 4, lines 16-18.

Consequently, in light of the above discussion and in view of the present amendment, this application is believed to be in condition for allowance and an early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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